



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 265**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S265-ARB-11 [v.2]

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Amends Title [YES]
First Edition

Date _____, 2021

Senator _____

1 moves to amend the bill on page 1, line 2, through page 2, line 33, by rewriting the lines to read:
2 "AN ACT TO INCREASE THE TRANSPARENCY OF BOND REFERENDA BY
3 REQUIRING ADDITIONAL DISCLOSURES BY UNITS OF LOCAL GOVERNMENT
4 AND TO MAKE LOCAL FINANCE RELATED CHANGES RECOMMENDED BY THE
5 STATE TREASURER.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 159-52(b) reads as rewritten:

8 "(b) The Commission shall approve the application if, upon the information and evidence
9 it receives, it finds and determines:

- 10 (1) That the proposed bond issue is necessary or expedient.
11 (2) That the amount proposed is adequate and not excessive for the proposed
12 purpose of the issue.
13 (3) That the unit's debt management procedures and policies are good, or that
14 reasonable assurances have been given that its debt will henceforth be
15 managed in strict compliance with law.
16 (4) That the increase in taxes, if any, necessary to service the proposed debt will
17 not be excessive.
18 (5) That the proposed bonds can be marketed at reasonable rates of interest.
19 (6) That the assumptions used by the finance officer of the unit in preparing the
20 statement of estimated interest filed with the clerk pursuant to
21 G.S. 159-55.1(a) are reasonable.

22 If the Commission tentatively decides to deny the application because it is of the opinion that
23 any one or more of these conclusions cannot be supported from the information presented to it,
24 it shall so notify the unit filing the application. If the unit so requests, the Commission shall hold
25 a public hearing on the application at which time any interested persons shall be heard. The
26 Commission may appoint a hearing officer to conduct the hearing, and to present a summary of
27 the testimony and his recommendations for the Commission's consideration."

28 **SECTION 2.(a)** G.S. 159-55(d) is repealed.

29 **SECTION 2.(b)** The section heading of G.S. 159-55 reads as rewritten:

30 "**§ 159-55. Sworn statement of debt; debt limitation; statement of estimated interest on the**
31 **bonds.**limitation."



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1 **SECTION 2.(c)** Part 2 of Article 4 of Chapter 159 is amended by adding a new
2 section to read:

3 **"§ 159-55.1. Statement of disclosures necessary for bond authorization.**

4 (a) After the bond order has been introduced and before the public hearing on it, the
5 finance officer shall file with the clerk to the board a statement of disclosure stating the following:

6 (1) Interest. – An estimate of the total amount of interest that will be paid on the
7 bonds over the expected term of the bonds, if issued, and a summary of the
8 assumptions upon which the estimate is based. The Commission must approve
9 the assumptions upon which the estimate is based as provided in
10 G.S. 159-52(b).

11 (2) Property taxes. – An estimate of the increase in property tax rate, if any,
12 necessary to service the proposed debt. If no increase in property tax rate is
13 estimated to be needed, a brief statement to the effect that the existing
14 projected revenues are expected to be sufficient to pay the principal and
15 interest of the bonds. The estimated increase in property tax rate shall be stated
16 as the rate of increase per one hundred dollars (\$100) of assessed valuation.

17 (3) Two-thirds bonds. – The amount of two-thirds bonds capacity the unit has
18 available for the current fiscal year, if any.

19 (b) The statement of disclosure shall include a statement to the effect that the information
20 contained in it is preliminary and is for general informational purposes only, that there is no
21 assurance that the assumptions upon which the disclosures are based will occur, that the
22 occurrence of certain of the assumptions is beyond the control of the unit, and that differences
23 between the actual circumstances at the time the bonds are issued from the assumptions included
24 in the disclosure could result in significant differences between the disclosures made and the
25 actual occurrences. The statement may include other qualifications as the finance officer deems
26 appropriate. The validity of the bonds authorized by the order is not subject to challenge on the
27 grounds that the actual occurrences when issued are different than the disclosures set forth in the
28 statement.

29 (c) The statement of disclosure shall be filed with the Commission, posted online, and
30 maintained by the Clerk of the board."

31 **SECTION 3.** G.S. 159-56 reads as rewritten:

32 **"§ 159-56. Publication of bond order as introduced.**

33 After the introduction of the bond order, the clerk shall publish it once with the following
34 statement appended:

35 "The foregoing order has been introduced and a sworn statement of debt has been filed under
36 the Local Government Bond Act showing the appraised value of the [issuing unit] to be \$ _____
37 and the net debt thereof, including the proposed bonds, to be \$ _____. The finance officer of
38 the [issuing unit] has filed a statement estimating that the total amount of interest that will be
39 paid on the bonds over the expected term of the bonds, if issued, is \$ _____. ~~The estimate is~~
40 ~~preliminary, is for general informational purposes only, and may differ from the actual interest~~
41 ~~paid on the bonds.~~ A tax will [may] is authorized to be levied to pay the principal of and interest
42 on the bonds if they are issued. The finance officer has filed a statement estimating that [a
43 property tax increase of \$ _____ per \$100 of assessed valuation] [no property tax increase] will

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1 be required to provide sufficient funds to pay the principal and interest on the proposed bonds.
2 These estimates are preliminary, are for general informational purposes only, and may differ
3 from the actual interest paid on the bonds or the actual property tax increases required to provide
4 sufficient funds to pay the principal and interest on the bonds. Anyone who wishes to be heard
5 on the questions of the validity of the bond order and the advisability of issuing the bonds may
6 appear at a public hearing or an adjournment thereof to be held at _____.

Clerk"

7
8
9
10 The publication may include a summary of the assumptions upon which the ~~estimate~~
11 estimates of the total amount of interest that will be paid on the bonds over the expected term of
12 the bonds, bonds if issued, or the amount of any property tax increase required to provide funds
13 to pay principal and interest on the bonds if issued, is are based, and may further state that there
14 is no assurance that the circumstances included in the assumptions will occur, that the occurrence
15 of certain of the assumptions is beyond the control of the issuing unit, and that differences
16 between the actual circumstances at the time the bonds are issued from the assumptions included
17 in the ~~estimate~~ estimates could result in significant differences between the estimated interest and
18 the actual interest on the ~~bonds, bonds~~ or the actual property tax increases required to provide
19 sufficient funds to pay the principal and interest on the bonds. The statement may include
20 additional qualifications as the unit deems appropriate. The validity of bonds authorized to be
21 issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost
22 of the bonds when ~~issued~~ issued, or the actual property tax increases required to provide sufficient
23 funds to pay the principal and interest on the bonds when issued, is different than the amount set
24 forth in the ~~estimate~~ estimates referenced in the publication of the bond order as introduced."

25 **SECTION 4.** G.S. 159-58 reads as rewritten:

26 **"§ 159-58. Publication of bond order as adopted.**

27 After adoption, the clerk shall publish the bond order once, with the following statement
28 appended:

29 "The foregoing order was adopted on the _____ day of _____, ____, and is hereby
30 published this _____ day of _____, _____. Any action or proceeding questioning the validity
31 of the order must be begun within 30 days after the date of publication of this notice. The finance
32 officer of the [issuing unit] has filed a statement estimating that the total amount of interest that
33 will be paid on the bonds over the expected term of the bonds, if issued, is \$ _____. A tax is
34 authorized to be levied to pay the principal and interest on the bonds if they are issued. The
35 finance officer has filed a statement estimating that [a property tax increase of \$ _____ per \$100 of
36 assessed valuation] [no property tax increase] will be required to provide sufficient funds to pay
37 the principal and interest on the proposed bonds. The estimate is preliminary, is ~~These estimates~~
38 are preliminary, are for general informational purposes only, and may differ from the actual
39 interest paid on the ~~bonds, bonds~~ or the actual property tax increases required to provide sufficient
40 funds to pay the principal and interest on the bonds.

Clerk"

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1 The publication may include a summary of the assumptions upon which the ~~estimate~~
2 ~~estimates~~ of the total amount of interest that will be paid on the bonds over the expected term of
3 the ~~bonds~~, bonds if issued, or the amount of any property tax increase required to provide
4 sufficient funds to pay the principal and interest on the bonds if issued, ~~is~~ are based, and may
5 further state that there is no assurance that the circumstances included in the assumptions will
6 occur, that the occurrence of certain of the assumptions is beyond the control of the issuing unit,
7 and that differences between the actual circumstances at the time the bonds are issued from the
8 assumptions included in the ~~estimate~~ ~~estimates~~ could result in significant differences between the
9 estimated interest and the actual interest on the ~~bonds~~. bonds or the actual property tax increases
10 required to provide sufficient funds to pay the principal and interest on the bonds. The statement
11 may include such additional qualifications as the unit deems appropriate. The validity of bonds
12 authorized to be issued pursuant to this act is not subject to challenge on the grounds that the
13 actual interest cost of the bonds when ~~issued~~ issued, or the actual property tax increases required
14 to provide sufficient funds to pay the principal and interest on the bonds when issued, is different
15 than the amount set forth in the ~~estimate~~ ~~estimates~~ referenced in the publication of the bond order
16 as adopted."

17 **SECTION 5.** Part 3 of Article 3 of Chapter 159 is amended by adding a new section
18 to read:

19 "**§ 159-33.2. Interim event reporting.**

20 The Secretary has the authority to require a unit of local government or public authority to
21 report events defined by the Secretary that will or may have a material, adverse effect on the
22 financial health, operations, or internal controls of the unit of local government or public
23 authority within 30 days after the occurrence of such events. The Commission shall adopt a policy
24 specifying the event required under this section. Within 30 days of adopting the policy, the
25 Secretary shall make the policy publicly available."

26 **SECTION 6.** G.S. 159-34 is amended by adding a new subsection to read:

27 "(d) The Commission may notify the State Treasurer and the Secretary of Revenue of a
28 unit's failure to comply with the annual audit requirements if the unit has failed to file a copy of
29 the audit report with the Secretary as required under subsection (a) of this section within 12
30 months of the unit's fiscal year end. Upon such notification, the Secretary of Revenue shall
31 withhold from the unit's distribution under G.S. 105-486, and from the unit's distribution under
32 G.S. 105-501 if necessary, an amount equal to one hundred fifty percent (150%) of the cost of
33 the required annual audit as indicated in the audit contract between the unit and its external
34 auditor for the audit report, if such a contract has been executed, or for the most recently filed
35 audit report if a contract has not been executed for the current year audit. The amount may be
36 withheld in subparts based upon a schedule of withholding developed by the Commission. The
37 total amount withheld shall be released to the unit upon the Commission's notification to the State
38 Treasurer and the Secretary of Revenue that the required report has been filed, reviewed to ensure
39 that the report complies with the requirements of this section, and accepted by the Secretary."

40 **SECTION 7.** G.S. 159-148 reads as rewritten:

41 "**§ 159-148. Contracts subject to Article; exceptions.**

42 (a) Except as provided in subsection (b) of this section, this Article applies to any
43 contract, agreement, memorandum of understanding, and any other transaction having the force

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1 and effect of a contract (other than agreements made in connection with the issuance of revenue
2 bonds, special obligation bonds issued pursuant to Article 7A of this Chapter, or of general
3 obligation bonds additionally secured by a pledge of revenues) made or entered into by a unit of
4 local government (as defined by G.S. 159-7(b) or, in the case of a special obligation bond, as
5 authorized in G.S. 159-146), relating to the lease, acquisition, or construction of capital assets,
6 which contract does all of the following:

- 7 (1) Extends for five or more years from the date of the contract, including periods
8 that may be added to the original term through the exercise of options to renew
9 or extend. For units included on the most recently published Unit Assistance
10 List issued by the Department of State Treasurer, this subdivision applies to
11 transactions that extend for three or more years from the date of the contract,
12 including periods that may be added to the original term through the exercise
13 of options to renew or extend.
14 (2) Obligates the unit to pay sums of money to another, without regard to whether
15 the payee is a party to the contract.
16 (3) Obligates the unit over the full term of the contract, including periods that may
17 be added to the original term through the exercise of options to renew or
18 extend:
19 a. For baseball park districts, to at least five hundred thousand dollars
20 (\$500,000).
21 b. For housing authorities, to at least five hundred thousand dollars
22 (\$500,000) or a sum equal to two thousand dollars (\$2,000) per
23 housing unit owned and under active management by the housing
24 authority, whichever is less.
25 c. For units included on the most recently published Unit Assistance List
26 issued by the Department of State Treasurer, to at least fifty thousand
27 dollars (\$50,000).
28 d. For other units, to at least five hundred thousand dollars (\$500,000) or
29 a sum equal to one-tenth of one percent (1/10 of 1%) of the assessed
30 value of property subject to taxation by the contracting unit, whichever
31 is less.
32 (4) Obligates the unit, expressly or by implication, to exercise its power to levy
33 taxes either to make payments falling due under the contract, or to pay any
34 judgment entered against the unit as a result of the unit's breach of the contract.

35 Contingent obligation shall be included in calculating the value of the contract. Several
36 contracts that are all related to the same undertaking shall be deemed a single contract for the
37 purposes of this Article. When several contracts are considered as a single contract, the term shall
38 be that of the contract having the longest term, and the sums to fall due shall be the total of all
39 sums to fall due under all single contracts in the group. No contract agreement shall be divided
40 for the purpose of, or that results in, evading the requirements of this Article.

- 41 (b) This Article shall not apply to:

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- 1 (1) Contracts between a unit of local government and the State of North Carolina
2 or the United States of America (or any agency of either) entered into as a
3 condition to the making of grants or loans to the unit of local government.
4 (2) Contracts for the purchase, lease, or lease with option to purchase of ~~motor~~
5 ~~vehicles or~~ voting machines.
6 (3) Repealed by Session Laws 2020-3, s. 4.30(g), effective retroactively to July
7 1, 2019.
8 (4) Contracts for the purchase, lease, or lease with option to purchase of motor
9 vehicles. This exemption shall not apply to units included on the most recently
10 published Unit Assistance List issued by the Department of State Treasurer
11 where the contract amount equals or exceeds \$50,000."

12 **SECTION 8.** This act is effective when it becomes law and applies to bonds issued
13 under bond orders introduced on or after that date and to contracts entered into on or after that
14 date."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____